



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2021-0751; FRL-9211-02-R10]

Air Plan Approval; Washington; Yakima Regional Clean Air Agency,

General Air Quality Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the Washington State Implementation Plan (SIP) that were submitted by the Department of Ecology (Ecology) in coordination with the Yakima Regional Clean Air Agency (YRCAA). In 2014, 2015, 2016, and 2020, the EPA approved revisions to the General Regulations for Air Pollution Sources promulgated by Ecology in the Washington Administrative Code (WAC). In this action, the EPA is approving an update to the SIP for YRCAA's jurisdiction to reflect these changes to the WAC. We are also approving updates to certain YRCAA regulations currently in the SIP, removing obsolete regulations, and approving a small set of YRCAA regulations to replace or supplement the corresponding WAC regulations for sources in YRCAA's jurisdiction.

DATES: This final rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R10-OAR-2021-0751. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and is publicly available only in hard copy form. Publicly available docket

materials are available at <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, EPA Region 10, 1200 Sixth Avenue – Suite 155, Seattle, WA 98101, at (206) 553-0256, or hunt.jeff@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document wherever “we,” “us,” or “our” is used, it is intended to refer to the EPA.

I. Background Information

On December 7, 2021, the EPA proposed to approve Washington’s October 14, 2021, SIP revision for YRCAA’s jurisdiction as meeting Clean Air Act (CAA) requirements (86 FR 69200). The public comment period for the proposed action ended on January 6, 2022.

II. Response to Comments

The EPA received three comments on the proposal. We have summarized and responded to the comments below. The full text of the submitted comments may be found in the docket for this action.

Comment – Emission data, as defined by the EPA, and other data used in preparation of plans must be publicly available

Summary – A commenter requested confirmation that “emission data” is not entitled to confidential treatment under YRCAA Regulation 1, section 1.06 *Records*. Specifically, subsection 1.06(D) treats as confidential records “any information, other than ambient air quality data or emission data” that is certified by an owner or operator as meeting certain requirements, subject to review by the agency. The commenter noted that Regulation 1 does not contain a definition of “emission data” and requested that YRCAA confirm that it will apply section 1.06 consistent with the EPA’s definition of “emissions data” in 40 CFR 2.301(a)(2). The commenter also states that Regulation 1 cannot exempt

information that is “used in the preparation of each plan or plan revision,” citing to 40 CFR 51.116. The commenter gave as an example of such information the identification of a manufacturing process that is used to estimate emissions from the facility for purposes of an attainment plan, and notes that this is an example of emission data, which is not entitled to confidential treatment.

Response –In response to the comment, the EPA has evaluated the commenter’s concern about the meaning of the term “emissions data” in subsection 1.06(D) and verified that the YRCCA uses this term consistent with CAA requirements. YRCAA has submitted a letter confirming that the agency interprets the term “emission data” consistent with the EPA’s definition of “emissions data” in 40 CFR 2.301(a)(2). YRCAA’s letter notes that this interpretation is consistent with the language in YRCAA Regulation 1, section 1.06 stating that the application of this provision is “to provide access to any information available under Federal or state law concerning the business of the agency.” Although inclusion of a specific definition of “emissions data” in section 1.06 could be helpful, the EPA is relying on YRCAA’s confirmation of the meaning of this term as part of the basis for this action. A copy of YRCAA’s letter is included in the docket for this action.

The EPA agrees that it is important to have clarity about the meaning of the term “emissions data” in SIPs. As a specific example of potential ambiguity about what is emissions data, the commenter states: “One example could be identification of a manufacturing process that is used to estimate emissions from the facility for purposes of an attainment plan. Even if the facility claims the identification of the manufacturing process is confidential, it is used in preparation of the plan and must be disclosed to the public.” The commenter then correctly notes that in this hypothetical scenario, if identification of the manufacturing process is in fact necessary information in order to estimate the emissions from the source, then this information is “emissions data” under

the EPA's definition in 40 CFR 2.301(a)(2). The EPA agrees that any information that meets the definition of "emissions data" in 40 CFR 2.301(a)(2) must be available to the public and may not be treated as confidential information.

It is unclear whether the commenter's statement that "Regulation 1 cannot exempt information that is 'used in the preparation of each plan or plan revision'" is limited to "emission data" used in the preparation of a plan or plan revision, or whether the commenter is making a broader statement that no information whatsoever used in preparation of a state implementation plan or plan revision may be treated as confidential and withheld from the public. To the extent the commenter is broadly asserting that no information used in preparation of a state implementation plan or plan revision may be treated as confidential, the EPA disagrees with that position.

Section 114(d) of the CAA addresses the extent to which certain information obtained by the EPA under the CAA, including information used for the purpose of developing or assisting in the development of any implementation plan under section 110 of the CAA, is entitled to confidential treatment. There is nothing in 40 CFR part 2, subpart B or part 51, however, to suggest that the EPA intended to require states to make available to the public information used in the preparation of an implementation plan or plan revision that would be entitled to confidential treatment under section 114(d) of the CAA. As noted by the commenter, however, any such claims may not extend to "emission data," as defined in 40 CFR 2.301(a)(2), which YRCAA has confirmed is the case under YRCAA Regulation 1, section 1.06. We therefore are finalizing our proposal to approve section 1.06 into the SIP to replace WAC 173-400-175 Public Information within YRCAA's jurisdiction

Comment – The EPA must fully disclose the legal effects of its approval of section 4.03 "Voluntary Limits on Emissions"

Summary – Section 4.03 Voluntary Limits on Emissions of YRCAA Regulation 1,

states in subsection (A), “Upon request by the owner or operator of a new or existing source or stationary source, the agency shall issue a regulatory order that limits the potential to emit any air contaminant or contaminants to a level agreed to by the owner or operator and the agency.” A commenter noted that the EPA had not stated in its proposed approval whether regulatory orders issued pursuant to section 4.03 can be enforced by the EPA under CAA section 113 or by citizens under CAA section 304. The commenter goes on to explain why it believes regulatory orders issued under YRCAA Region I, section 4.03 are enforceable by the EPA and citizens under the CAA.

Response – YRCAA Regulation 1, section 4.03 is a nearly verbatim adaptation of the state regulation WAC 173-400-091 *Voluntary Limits on Emissions*, which the EPA last approved on October 3, 2014 (79 FR 59653).¹ In 40 CFR 52.2495 *Voluntary limits on potential to emit*, the EPA explicitly stated that the terms and conditions of regulatory orders covering regulated new source review pollutants issued pursuant to WAC 173-400-091 shall be applicable requirements of the federally-approved Washington SIP for the purposes of CAA section 113 and shall be enforceable by the EPA and by any person in the same manner as other requirements of the SIP. We interpret 40 CFR 52.2495 to apply to any local clean air agency corollary regulation approved in lieu of WAC 173-400-091, as well as the Energy Facilities Site Evaluation Council’s adoption by reference of WAC 173-400-091. We are revising 40 CFR 52.2495 with this clarification to remove any ambiguity on this issue. With this clarification, we are finalizing our proposal to approve section 4.03 into the SIP to replace WAC 173–400–091 Voluntary Limits on Emissions.

Comment –A commenter questions whether the EPA should approve a SIP for a clean air agency when the commenter asserts there are ongoing complaints about the agency’s legitimacy

¹ Please see the docket for a redline / strikeout comparison of section 4.03 and WAC 173-400-091.

Summary –A commenter identifies what it considers to be numerous concerns with YRCAA agency leadership and program implementation and enforcement. The concerns include that the proposed SIP revision was not signed by all YRCAA board members, a board member rarely attends YRCAA board meetings, and that permitting decisions are made by staff and not board members. The letter also summarizes a recent request made by the commenter to the Yakima County Commissioners to dissolve the YRCAA. The commenter summarized concerns raised in their dissolution request, including allegations that YRCAA does not address significant air pollution in a part of its jurisdiction that is an environmental justice community, that YRCAA has refused to acknowledge environmental justice, that YRCAA refused to investigate complaints regarding odor and dust when the source is animal agriculture, that YRCAA does not measure levels of ammonia, hydrogen sulfide, methane, oxygen, or other pollutants when citizens complain that they cannot breathe due to air pollution in their homes, that YRCAA ignores Washington laws regulating confined animal feeding operations and that YRCAA does not regulate dairies in Yakima County.

Response – The commenter questions whether the EPA should approve a SIP for YRCAA because the commenter contends there are ongoing concerns about the legitimacy of the YRCAA and states that it has requested Yakima County to dissolve YRCAA. In response to those concerns, we note that YRCAA is established as a local air authority under Revised Code of Washington (RCW) 70A.15.1500 to 70A.15.2040 of the Washington Clean Air Act. The Washington Clean Air Act contains a mechanism for the state to investigate and address concerns with local air agency performance. Specifically, under RCW 70A.15.3100, the Department of Ecology “may, on its own motion, conduct a hearing held in accordance with chapters 42.30 and 34.05 RCW, to determine whether or not the air pollution prevention and control program of such authority is being carried out in good faith and is as effective as possible. If at such hearing the department finds

that such authority is not carrying out its air pollution control or prevention program in good faith, is not doing all that is possible and reasonable to control and/or prevent air pollution within the geographical area over which it has jurisdiction, or is not carrying out the provisions of this chapter, it shall set forth in a report or order to the appropriate authority: (1) Its recommendations as to how air pollution prevention and/or control might be more effectively accomplished; and (2) guidelines which will assist the authority in carrying out the recommendations of the department.” In letters dated August 31, 2016 and April 8, 2019, included in the docket for this action, Ecology responded to past requests for formal review of YRCAA under RCW 70A.15.3100 (previously codified at RCW 70.94.405) from the commenter based on similar concerns raised by the commenter about the legitimacy of YRCAA. For the reasons set forth in the response letters, Ecology did not initiate a formal review of YRCAA under RCW 70A.15.3100.

With respect to the specific proposed rulemaking update, the Washington Department of Ecology is the Governor’s designee for SIP revisions. In March 2021, YRCAA submitted the revised rules to Ecology and requested Ecology submit them to the EPA for review and approval into the SIP. Ecology held two public comment periods from April 8, 2021 to May 20, 2021 and July 30, 2021 to August 6, 2021, with supplemental documentation. During the state public comment periods, the commenter, and other associated commenters, raised concerns similar to those raised during the EPA’s public comment period in this action. On October 4, 2021, Ecology’s Director, Laura Watson, as the Governor’s designee, reviewed the results of the public review process and made the determination to adopt the SIP revision and submit it to the EPA for review and approval. Ecology’s response to comments is included in the SIP revision and was reviewed by the EPA prior to our proposed approval. As Ecology notes in its responses, if Ecology does not submit the current YRCAA regulations to the EPA for review and approval, the YRCAA rules that were in place in 1989 would continue to be

the rules that the EPA and the public can enforce in Federal court, and would not correspond to the rules YRCAA currently implements, creating uncertainty for the public, regulated community and regulatory agencies. We agree with that assessment.

With respect to the EPA's review of the more specific comments raised by this commenter during the public comment period in this action, many of the concerns, such as the regulation of odor and toxic air pollutants regulated under Chapter 173-460 WAC, are outside the scope of this action. The EPA's authority to approve SIP submissions extends to provisions related to attainment and maintenance of the National Ambient Air Quality Standards through regulation of criteria pollutants and their precursors and carrying out other specific requirements of section 110 and Parts C and D of the CAA. To the extent that the commenter raises concerns regarding YRCAA's regulation of precursors to criteria pollutants, such as ammonia and volatile organic compounds, none of the comments address a specific deficiency in a regulation that the EPA proposed to approve in this action. In this regard, we note that Yakima County is not designated nonattainment for any criteria pollutants and this SIP revision was not submitted to address any outstanding CAA Part D nonattainment requirements.

With respect to the assertion that YRCAA ignores specified Washington laws with respect to confined animal feeding operations, the commenter does not explain the basis for its concerns with any specificity. Several of the provisions cited by the commenter are clearly outside the scope of this action: RCW 70.15.2270 (addressing fees under Washington's title V operating permit program) and WAC 173-460 (toxic air pollutants). RCW 70A.15.1005 (declaration of public policies and purpose), and RCW 70A.15.3150, (penalties) are broad, authorizing legislation, and the commenter does not explain how YRCAA is ignoring these statutes and how such an allegation relates to the EPA's authority to approve the revisions and updates to the Washington SIP. RCW 70A.15.3050 (emission control requirements) provides that local air authorities in

Washington must generally have requirements for the control of emissions that are no less stringent than those adopted by the Washington Department of Ecology. The commenter does not explain with any specificity, however, how the YRCAA regulations that the EPA proposed to approve in this action are less stringent than Ecology's regulations. In this regard, the EPA notes that it has proposed to approve subsection 3.08(B) *Dust from Cattle Feeding Operations*, which adds additional requirements to supplement the state requirements in WAC 173-400-040(9) *Fugitive Dust*. Because no equivalent requirements for dust control plans at cattle feeding operations exist in state or Federal regulations, subsection 3.08(B) *Dust from Cattle Feeding Operations* is SIP-strengthening. The commenter also cites to WAC 173-400-100, Washington's registration requirements. This regulation, however, is not in the SIP. See 79 FR 39351 (July 10, 2014) at page 39354.

In summary, the commenter raises broad concerns about YRCAA program implementation and enforcement of air pollution control requirements but does not raise specific Regulation 1 provisions for the EPA to address or specify any action the EPA should take differently with regards to the submitted regulations.

III. Final Action

A. Regulations Approved and Incorporated by Reference into the SIP

The EPA is approving general air quality regulations for the YRCAA jurisdiction. These regulations impose new source review permitting requirements, source registration requirements, source testing procedures, public participation requirements, control measures for certain source categories such as dust control requirements, and other general provisions as necessary to implement the requirements above, such as definitions and procedures. Specifically, the EPA is approving and incorporating by reference into the Washington SIP at 40 CFR 52.2470(c) – *Table 10—Additional Regulations Approved for the Yakima Regional Clean Air Agency (YRCAA) Jurisdiction*, the following YRCAA

Regulation 1 sections effective November 11, 2020:

- 1.01, 1.02, 1.03, 1.04, 1.06, 1.07, 2.04, 3.01, 3.08, 4.01, 4.03, Appendix A, and Appendix B.

The EPA is also approving and incorporating by reference the following Chapter 173-400 WAC sections (state effective as of the date shown below) that YRCAA and Ecology submitted to apply within YRCAA's jurisdiction:

- 173-400-020 (12/29/2012), 173-400-025 (9/16/2018), 173-400-030 (9/16/2018), 173-400-036 (12/29/2012), 173-400-040 (9/16/2018), 173-400-050 (9/16/2018), 173-400-060 (11/25/2018), 173-400-105 (11/25/2018), 173-400-110 (12/29/2012), 173-400-111 (07/01/2016), 173-400-112 (12/29/2012), 173-400-113 (12/29/2012), 173-400-117 (12/29/2012), 173-400-118 (12/29/2012), 173-400-131 (4/1/2011), 173-400-136 (4/1/2011), 173-400-151 (2/10/2005), 173-400-171 (9/16/2018), 173-400-200 (2/10/2005), 173-400-560 (12/29/2012), 173-400-800 (4/1/2011), 173-400-810 (07/01/2016), 173-400-820 (12/29/2012), 173-400-830 (07/01/2016), 173-400-840 (07/01/2016), 173-400-850 (07/01/2016), and 173-400-860 (4/1/2011).

Please see the amendatory text for more detailed information about the provisions submitted and approved in this action, including local agency corollaries which replace certain Chapter 173-400 WAC provisions and exclusions to our approval.

B. Approved but Not Incorporated by Reference Regulations

In addition to the regulations approved and incorporated by reference described in section III.A. of this preamble, the EPA reviews and approves state and local clean air agency submissions to ensure they provide adequate enforcement authority and other general authority to implement and enforce the SIP. However, regulations describing such agency enforcement and other general authority are generally not incorporated by reference so as to avoid potential conflict with the EPA's independent authorities.

Therefore, we are approving the following updates to YRCAA's general provisions for inclusion in 40 CFR 52.2470(e), *Table 1—Approved but Not Incorporated by Reference Regulations*: YRCAA Regulation 1, sections 1.05, 2.01, 2.02, 2.05, 5.01, 5.02, and 5.03.

C. Regulations to Remove from the SIP

YRCAA and Ecology's October 14, 2021, submittal included a request to remove several obsolete provisions from the SIP and to remove other provisions that are not required SIP elements under CAA section 110. As discussed in the proposal for this action, we are removing former section 1.03 which was replaced by Appendix A; former section 2.03 which was replaced by the provisions of section 1.07; former section 2.04 which was replaced by the provisions of section 1.06; former section 5.10 which was repealed effective May 1, 2000; former section 5.12 which was replaced by section 3.08 and WAC 173-400-040; former sections 13.01, 13.02, and 13.03 which were replaced by the provisions of section 2.02; former section 12.01 which was replaced by section 2.03 and is not a required SIP element; and former sections 3.11, 4.02, 4.03, 5.06, 5.07, 5.08, and 5.11, for which YRCAA is now relying on Chapter 173-400 WAC. We are also removing from 40 CFR 52.2470(c) the former sections 2.02, 2.05, 3.01, 3.02, 3.03, 3.04, 8.01, 8.02, 8.03, 8.04, and 8.05, related to local agency enforcement and other general authority, now consolidated in sections 1.05, 2.01, 2.02, 2.05, 5.01, 5.02, and 5.03 approved in 40 CFR 52.2470(e), *Table 1—Approved But Not Incorporated By Reference Regulations*. We are removing from the SIP Chapter 173-400 WAC provisions approved by the EPA on June 2, 1995 (60 FR 28726) that we are replacing with the local agency corollaries. These provisions are WAC 173-400-010 (replaced by section 1.03), 173-400-091 (replaced by section 4.03), and 173-400-100 (replaced by section 4.01).

D. Scope of Proposed Action

This revision to the SIP applies specifically to the YRCAA jurisdiction incorporated into the SIP at 40 CFR 52.2470(c), Table 10. As discussed in our proposal,

local air agency jurisdiction in Washington is generally defined on a geographic basis; however, there are exceptions. By statute, YRCAA does not have authority for sources under the jurisdiction of the Energy Facilities Site Evaluation Council (EFSEC). See Revised Code of Washington Chapter 80.50. Under the applicability provisions of WAC 173-405-012, 173-410-012, and 173-415-012, YRCAA also does not have jurisdiction for kraft pulp mills, sulfite pulping mills, and primary aluminum plants. For these sources, Ecology retains statewide, direct jurisdiction. Ecology and EFSEC also retain statewide, direct jurisdiction for issuing Prevention of Significant Deterioration (PSD) permits. Therefore, the EPA is not approving into 40 CFR 52.2470(c), Table 10 those provisions of Chapter 173-400 WAC related to the PSD program. Specifically, these provisions are WAC 173-400-116 and WAC 173-400-700 through 173-400-750, which the EPA has already approved as applying state-wide under 40 CFR 52.2470(c), Tables 2 and 3.

Jurisdiction to implement the visibility permitting program contained in WAC 173-400-117 varies depending on the situation. Ecology and EFSEC retain authority to implement WAC 173-400-117 as it relates to PSD permits. However, for facilities subject to major nonattainment new source review (NSR) under the applicability provisions of WAC 173-400-800, we are approving YRCAA's implementation of those parts of WAC 173-400-117 as they relate to major nonattainment NSR permits.² Therefore, we are modifying the visibility protection Federal Implementation Plan contained in 40 CFR 52.2498 to reflect the approval of WAC 173-400-117 as it applies to implementation of the major nonattainment NSR program in YRCAA's jurisdiction.

Lastly, this SIP revision is not approved to apply on any Indian reservation land within Yakima County and is also not approved to apply in any other area where the EPA

² This approval is with respect to the current area designations and classifications in the YRCAA jurisdiction only. New nonattainment designations trigger nonattainment NSR SIP revisions, among other area planning requirements.

or an Indian tribe has demonstrated that a tribe has jurisdiction.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, we are finalizing the incorporation by reference of certain provisions as described in section III.A. and removing provisions from the SIP as described in section III.C. of this preamble. The EPA has made, and will continue to make, materials incorporated by reference generally available through <https://www.regulations.gov> and at the EPA Region 10 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally-enforceable under sections 110 and 113 of the CAA as of the effective date of the final rule of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.³

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this final action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this final action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

³ 62 FR 27968 (May 22, 1997).

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

This SIP revision is not approved to apply on any Indian reservation land within Yakima County and is also not approved to apply in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). Consistent with EPA policy, the EPA provided an

opportunity to request consultation to the Confederated Tribes and Bands of the Yakama Nation in a letter dated April 5, 2021.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: June 28, 2022.

Casey Sixkiller,
Regional Administrator, Region 10.

For the reasons set forth in the preamble, 40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION
PLANS**

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart WW—Washington

2. In § 52.2470 amend:

a. Paragraph (c) by revising “Table 10”; and

b. Paragraph (e) by adding a new heading for “Yakima Regional Clean Air Agency Regulations” and adding new entries “1.05”, “2.01”, “2.02”, “2.05”, “5.01”, “5.02”, and “5.03” at the end of Table 1.

The additions and revisions read as follows:

§ 52.2470 Identification of plan.

* * * *

(c) * * *

**TABLE 10—ADDITIONAL REGULATIONS APPROVED FOR THE YAKIMA REGIONAL
CLEAN AIR AGENCY (YRCAA) JURISDICTION**

[Applicable in Yakima county, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology’s direct jurisdiction under Chapters 173-405, 173-410, and 173-415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173-400-700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
Yakima Regional Clean Air Agency Regulations				
Article 1—General Administrative Provisions				
1.01	Name of Agency	11/09/20	[INSERT DATE OF PUBLICATION IN THE	

			FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
1.02	Short Title	11/09/20	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
1.03	Policy	11/09/20	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	Except sub- section H. Replaces WAC 173-400-010.
1.04	Applicability	11/09/20	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
1.06	Records	11/09/20	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	Replaces WAC 173-400-175.
1.07	General Provisions	11/09/20	[INSERT DATE OF PUBLICATION IN THE	Replaces WAC 173-400-105(6) & (8).

			FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
Article 2—General Regulations				
2.04	Public Participation in Permitting	11/09/20	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
Article 3—Rules				
3.01	General Rules	11/09/20	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	Except subsection D.
3.04	Wood Heaters	11/09/20	1/24/22, 87 FR 3435	
3.05	Burn Bans	11/09/20	1/24/22, 87 FR 3435	
3.08	Specific Dust Controls	11/09/20	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	Except subsections 3.08(A)(3)(b) and 3.08(B)(3).
Article 4—Permits and Registration				
4.01	Registration Program	11/09/20	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL	Excluding any provisions related to the regulation of Toxic Air Pollutants.

			REGISTER CITATION]	
4.03	Voluntary Limits on Emissions	11/09/20	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	Replaces WAC 173-400-091 (state effective 4/1/11). The 9/20/93 version of WAC 173-400- 091 continues to be approved under the authority of CAA Section 112(l) with respect to Section 112 hazardous air pollutants. See the Federal Register of June 2, 1995).
Article V—Emissions Standards and Preventative Measures				
5.01	Outdoor Burning	12/15/95	2/2/98, 63 FR 5269	Subsections 5.01- 5.05 (state effective 12/15/95) were subsequently consolidated and renumbered to subsection 3.03 which will be addressed in a separate action.
5.02	Regulations Applicable to all Outdoor Burning	12/15/95	2/2/98, 63 FR 5269	Subsections 5.01- 5.05 (state effective 12/15/95) were subsequently consolidated and renumbered to subsection 3.03 which will be addressed in a separate action.
5.03	Regulations Applicable to all Outdoor Burning within Jurisdiction of the Yakima County Clean Air Authority,	12/15/95	2/2/98, 63 FR 5269	Subsections 5.01- 5.05 (state effective 12/15/95) were subsequently consolidated and renumbered to subsection 3.03

	Local Cities, Towns, Fire Protection Districts and Conservation Districts			which will be addressed in a separate action.
5.04	Regulations Applicable to Permits Issued by the Yakima County Clean Air Authority for all Other Outdoor Burning	12/15/95	2/2/98, 63 FR 5269	Subsections 5.01-5.05 (state effective 12/15/95) were subsequently consolidated and renumbered to subsection 3.03 which will be addressed in a separate action.
5.05	Additional Restrictions on Outdoor Burning	12/15/95	2/2/98, 63 FR 5269	Subsections 5.01-5.05 (state effective 12/15/95) were subsequently consolidated and renumbered to subsection 3.03 which will be addressed in a separate action.
Appendices				
Appendix A	Definitions of Words and Phrases	11/09/20	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
Appendix B	Definitions of Acronyms and Abbreviations	11/09/20	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
Washington Department of Ecology Regulations				

Washington Administrative Code, Chapter 173-400—General Regulations for Air Pollution Sources				
173-400-020	Applicability	12/29/12	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
173-400-025	Adoption of Federal Rules	9/16/18	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
173-400-030(24)	Definitions	3/22/91	6/2/95, 60 FR 28726	
173-400-030	Definitions	9/16/18	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	Except: 173-400-030(6); 173-400-030(32); 173-400-030(38); 173-400-030(45); 173-400-030(83); 173-400-030(89); 173-400-030(96); 173-400-030(97); 173-400-030(100); 173-400-030(103); 173-400-030(104).
173-400-036	Relocation of Portable Sources	12/29/12	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	

173-400-040(1)(a) & (b)	General Standards for Maximum Emissions	3/22/91	6/2/95, 60 FR 28726	Subsections 173-400-040(1)(a)&(b)(state effective 3/22/91) were subsequently revised and renumbered to subsection 173-400-040(2) which will be addressed in a separate action.
173-400-040	General Standards for Maximum Emissions	9/16/18	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	Except: 173-400-040(2); 173-400-040(3); 173-400-040(5);
173-400-050	Emission Standards for Combustion and Incineration Units	9/16/18	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	Except: 173-400-050(2); 173-400-050(4); 173-400-050(5); 173-400-050(6).
173-400-060	Emission Standards for General Process Units	11/25/18	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
173-400-070	Emission Standards for Certain Source Categories	3/22/91	6/2/95, 60 FR 28726	Except (7).
173-400-081	Startup and Shutdown	9/20/93	6/2/95, 60 FR 28726	

173-400-105	Records, Monitoring and Reporting	11/25/18	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	Except 173-400-105(6) & (8).
173-400-107	Excess Emissions	9/20/93	6/2/95, 60 FR 28726	
173-400-110	New Source Review (NSR) for Sources and Portable Sources	12/29/12	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	<p>Except:</p> <p>173-400-110(1)(c)(ii)(C);</p> <p>173-400-110(1)(e);</p> <p>173-400-110(2)(d);</p> <p>The part of WAC 173-400-110(4)(b)(vi) that says,</p> <ul style="list-style-type: none"> • “not for use with materials containing toxic air pollutants, as listed in chapter 173-460 WAC,”; <p>The part of 400-110 (4)(e)(iii) that says,</p> <ul style="list-style-type: none"> • “where toxic air pollutants as defined in chapter 173-460 WAC are not emitted”; <p>The part of 400-110(4)(f)(i) that says,</p> <ul style="list-style-type: none"> • “that are not toxic air pollutants listed in chapter 173-460 WAC”; <p>The part of 400-110 (4)(h)(xviii) that says,</p> <ul style="list-style-type: none"> • “, to the extent that toxic air pollutant gases as defined in

				<p>chapter 173-460 WAC are not emitted”;</p> <p>The part of 400-110 (4)(h)(xxxiii) that says,</p> <ul style="list-style-type: none"> • “where no toxic air pollutants as listed under chapter 173-460 WAC are emitted”; <p>The part of 400-110(4)(h)(xxxiv) that says,</p> <ul style="list-style-type: none"> • “, or $\leq 1\%$ (by weight) toxic air pollutants as listed in chapter 173-460 WAC”; <p>The part of 400-110(4)(h)(xxxv) that says,</p> <ul style="list-style-type: none"> • “or $\leq 1\%$ (by weight) toxic air pollutants”; <p>The part of 400-110(4)(h)(xxxvi) that says,</p> <ul style="list-style-type: none"> • “or $\leq 1\%$ (by weight) toxic air pollutants as listed in chapter 173-460 WAC”; <p>400-110(4)(h)(xl), second sentence;</p> <p>The last row of the table in 173-400-110(5)(b) regarding exemption levels for Toxic Air Pollutants.</p>
173-400-111	Processing Notice of Construction Applications for Sources, Stationary	07/01/16	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER],	<p>Except:</p> <p>173-400-111(3)(h);</p> <p>The part of 173-400-111(8)(a)(v) that says,</p>

			[INSERT FEDERAL REGISTER CITATION]	<ul style="list-style-type: none"> “and 173-460-040,”; 173-400-111(9).
173-400-112	Requirements for New Sources in Nonattainment Areas -- Review for Compliance with Regulations	12/29/12	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
173-400-113	New Sources in Attainment or Unclassifiable Areas -- Review for Compliance with Regulations	12/29/12	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	Except: 173-400-113(3), second sentence.
173-400-117	Special Protection Requirements for Federal Class I Areas	12/29/12	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
173-400-118	Designation of Class I, II, and III Areas	12/29/12	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
173-400-131	Issuance of Emission Reduction Credits	4/1/11	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER],	

			[INSERT FEDERAL REGISTER CITATION]	
173-400-136	Use of Emission Reduction Credits (ERC)	12/29/12	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
173-400-151	Retrofit Requirements for Visibility Protection	2/10/05	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
173-400-161	Compliance Schedules	3/22/91	6/2/95, 60 FR 28726	
173-400-171	Public Notice and Opportunity for Public Comment	9/16/18	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	Except: The part of 173-400-171(3)(b) that says, <ul style="list-style-type: none"> • “or any increase in emissions of a toxic air pollutant above the acceptable source impact level for that toxic air pollutant as regulated under chapter 173-460 WAC”; 173-400-171(3)(o); 173-400-171(12).
173-400-190	Requirements for Nonattainment Areas	3/22/91	6/2/95, 60 FR 28726	
173-400-200	Creditable Stack Height	2/10/05	[INSERT DATE OF	

	and Dispersion Techniques		PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
173-400-205	Adjustment for Atmospheric Conditions	3/22/91	6/2/95, 60 FR 28726	
173-400-210	Emission Requirements of Prior Jurisdictions	3/22/91	6/2/95, 60 FR 28726	
173-400-560	General Order of Approval	12/29/12	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	Except: The part of 173-400-560(1)(f) that says, “173-460 WAC”.
173-400-800	Major Stationary Source and Major Modification in a Nonattainment Area	4/1/11	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	EPA did not review WAC 173-400-800 through 860 for consistency with the 2016 PM _{2.5} implementation rule (see the <i>Federal Register</i> of August 24, 2016); nor does YRCAA have an obligation to submit rule revisions to address the 2016 PM _{2.5} implementation rule at this time
173-400-810	Major Stationary Source and Major Modification Definitions	7/1/16	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER],	

			[INSERT FEDERAL REGISTER CITATION]	
173-400-820	Determining if a New Stationary Source or Modification to a Stationary Source is Subject to these Requirements	12/29/12	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
173-400-830	Permitting Requirements	7/1/16	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
173-400-840	Emission Offset Requirements	7/1/16	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
173-400-850	Actual Emissions Plantwide Applicability Limitation (PAL)	7/1/16	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
173-400-860	Public Involvement Procedures	4/1/11	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER],	

			[INSERT FEDERAL REGISTER CITATION]	
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TABLE 1—APPROVED BUT NOT INCORPORATED BY REFERENCE REGULATIONS

State/local l citation	Title/subject	State/local effective date	EPA approval date	Explanations
*	*	*	*	*
Yakima Regional Clean Air Agency Regulations				
1.05	Roles and Responsibilities	11/09/20	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
2.01	Authority and Investigation	11/09/20	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
2.02	Authority to Collect Fees	11/09/20	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
2.05	Appeals	11/09/20	[INSERT DATE OF PUBLICATION	

			IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
5.01	General Information	11/09/20	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
5.02	Additional or Alternative Enforcement Actions	11/09/20	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
5.03	Penalties	11/09/20	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	

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3. Amend § 52.2495 by revising paragraph (a) to read as follows:

§ 52.2495 Voluntary limits on potential to emit.

(a) Terms and conditions of regulatory orders covering regulated NSR pollutants (as defined in 40 CFR 52.21(b)), issued pursuant to WAC 173-400-091 “Voluntary limits on emissions” and in accordance with the provisions of WAC 173-400-091, WAC 173-400-

105 “Records, monitoring, and reporting,” and WAC 173-400-171 “Public involvement,” shall be applicable requirements of the Federally-approved Washington SIP for the purposes of section 113 of the Clean Air Act and shall be enforceable by the EPA and by any person in the same manner as other requirements of the SIP. Such regulatory orders issued pursuant to WAC 173-400-091 are part of the Washington SIP and shall be submitted to EPA Region 10 in accordance with the requirements of 40 CFR 51.326. This includes any local clean air agency corollary approved by the EPA to act in lieu of WAC 173-400-091 or the adoption by reference of WAC 173-400-091 by any state or local agency. The EPA-approved provisions of the WAC are identified in 40 CFR 52.2470(c).

* * * * *

4. Amend § 52.2498 by revising paragraph (a)(1) to read as follows:

§ 52.2498 Visibility protection.

(a) * * *

(1) Sources subject to the jurisdiction of Olympic Region Clean Air Agency;

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